

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PCT 14/04	FOR FURTHER ACTION	
See Form PCT/IPEA/416		
International application No. PCT/IT2004/000141	International filing date (<i>day/month/year</i>) 22.03.2004	Priority date (<i>day/month/year</i>) 10.04.2003
International Patent Classification (IPC) or national classification and IPC A61N1/40, A61N1/06		
<p>Applicant BONSEGNA, PIER LUIGI-MARIA</p>		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <ul style="list-style-type: none"> a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (Indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 	
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input checked="" type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 	

Date of submission of the demand 09.11.2004	Date of completion of this report 09.03.2005
<p>Name and mailing address of the International preliminary examining authority:</p> <p>European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465</p>	
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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/IT2004/000141

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-8 as originally filed

Claims, Numbers

1-13 as originally filed

Drawings, Sheets

15-5/5 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
- 3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
- 4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. II Priority

1. This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
 copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4,12,13
	No: Claims	1,2,3,5,6,7,8,9,10,11
Inventive step (IS)	Yes: Claims	
	No: Claims	4,12,13
Industrial applicability (IA)	Yes: Claims	1-13
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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(SEPARATE SHEET)**

International application No.

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Re Item V.

1. The following documents are referred to in this communication:

D1 : ES 2 081 241 A (SANCHEZ SORIANO JOSE) 16 February 1996

D2 : US 5 003 991 A (ABE MASASHI ET AL) 2 April 1991

D3 : US 4 846 196 A (WIKSELL HANS O T ET AL) 11 July 1989

2. INDEPENDENT CLAIM 1

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of the single independent apparatus claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parenthesis applying to this document): an apparatus for non-destructive hyperthermia therapies (see figure 1) comprising means for generating radiofrequency electromagnetic radiations (the diathermy generator 1) connectable to means (the electrodes 3,4) for the application of said radiations to the human body.

Therefore, document D1 discloses the combination of features in claim 1, whose subject-matter is not new (Art. 33(2) PCT).

2.2. The applicant should note that also documents D2 and D3 deprive claim 1 from novelty (see Art. 33(2) PCT and the passages cited in the international search report).

3. DEPENDENT CLAIMS 2-13

The dependent claims currently on file do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step for the following reasons.

3.1. NOVELTY (ART. 33(2) PCT)

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The additional features of claims 2, 3, 5-7 and 10 have already been disclosed in D1 (see figure 1 and col. 2, line 41 - col. 3, line 15). These claims, thus, lack novelty in view of D1.

Claims 9 and 11 depend on claim 1 directly and their additional features have been disclosed in D2 (see figure 11). The subject-matter of claims 9 and 11 is not new in view of D2.

Claim 8 depends on claim 1 directly and its additional feature has been disclosed in D3 (see col. 4, lines 8-17)). The subject-matter of claim 8 is not new in view of D3.

3.2. INVENTIVE STEP (ART. 33(3) PCT)

The additional features of dependent claim 4 have been disclosed in D2 (see col. 6, lines 19-28). Nevertheless, the subject-matter of claim 4 differs from the apparatus known in D2 in that one electrode is a reference electrode (this feature has been defined in claim 2 on which claim 4 depends). Since this difference appears trivial to the person skilled in the art, claim 4 does not involve an inventive step.

Although the additional features of claims 12 and 13 have not been disclosed in the available prior art, they relate to minor constructional changes which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claims 12 and 13 also lacks an inventive step.